

SIXTY-SEVENTH DAY

(Thursday, May 18, 1989)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Almighty Father, we are mindful this 71st Session of the Legislature is approaching its final hours and much is yet to be considered and resolved. We pray this morning for self-confidence and skill for each one as they work through the busy agenda.

Also, we pray for each Member who has contributed in thought and word during these past weeks and provide to them whatever is required in bringing to a successful conclusion the deliberations on the several issues pending.

In our Lord's name, we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

BILLS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills:

S.B. 29	S.B. 586	S.B. 791	S.B. 1080
S.B. 94	S.B. 595	S.B. 807	S.B. 1101
S.B. 169	S.B. 621	S.B. 839	S.B. 1143
S.B. 226	S.B. 625	S.B. 878	S.B. 1146
S.B. 262	S.B. 632	S.B. 956	S.B. 1159
S.B. 319	S.B. 681	S.B. 960	S.B. 1259
S.B. 438	S.B. 757	S.B. 969	S.B. 1431
S.B. 483	S.B. 779	S.B. 970	S.B. 1537
S.B. 490	S.B. 789	S.B. 977	S.B. 1547
		S.B. 1047	S.B. 1654

MESSAGE FROM THE HOUSE

House Chamber
May 18, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 154, Authorizing the chief clerk of the House to return **H.B. 301** to the Senate for further consideration.

H.C.R. 277, Congratulating the Deer Park High School Academic Decathlon Team.

H.B. 342, Relating to the regulation and taxation of bingo games; providing administrative and enforcement procedures and penalties.

H.B. 432, Relating to the appraisal of property for ad valorem tax purposes and the administration and financing of appraisal districts; providing penalties.

H.B. 1434, Relating to the powers and duties of a county purchasing agent in certain counties and to competitive bidding procedures for county purchases.

H.B. 1777, Relating to the creation of the offenses of hate crime and institutional vandalism; allowing civil actions for those crimes.

H.B. 1787, Relating to the regulation of the care and treatment of animals in riding stables; providing a penalty.

H.B. 2033, Relating to certain election processes and procedures.

H.B. 2330, Relating to the applicability of the sunset review process to the State Seed and Plant Board.

H.B. 2608, Relating to provision for and regulation of health insurance and health care benefits coverage; providing a penalty.

H.B. 2645, Relating to the sunset review of the office of Southern Regional Education Compact Commissioner for Texas.

S.B. 892, Relating to the establishment of a committee for the purpose of funding, designing and constructing a memorial for peace officers on the grounds of the State Capitol. (As substituted)

The House has concurred in Senate amendments to **H.B. 1462** by a non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Brooks submitted the following report for the Committee on Health and Human Services:

H.J.R. 4
H.B. 3114
H.B. 1724
H.B. 2647
H.B. 2648
H.B. 2657
H.B. 3130
C.S.H.B. 3134

Senator Montford submitted the following report for the Committee on State Affairs:

H.B. 1822
H.B. 1506
H.B. 1031
H.B. 755
H.B. 2255
H.B. 827

H.B. 2532
H.B. 1633
H.J.R. 40 (Amended)
C.S.H.B. 174
C.S.S.B. 1691
C.S.S.B. 295

(Senator Brooks in Chair)

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

H.B. 627
H.C.R. 77
H.B. 2622
H.B. 2370
H.B. 2318
H.B. 3070
H.B. 528
H.B. 1234
H.B. 2317
H.B. 2316
H.B. 2296
H.B. 2016
H.B. 1821
H.B. 1639
H.B. 1297
S.B. 1816 (Amended)
H.B. 1239 (Amended)
C.S.S.B. 1196
C.S.H.B. 1588
C.S.H.B. 3127
C.S.S.B. 1803
C.S.H.B. 2799
C.S.H.B. 980

Senator Green, Vice-Chairman, submitted the following report for the Committee on Economic Development:

H.B. 2332
H.B. 1272
H.B. 2774
H.B. 1794
H.B. 346
H.B. 2487
H.B. 1728
H.C.R. 123
H.B. 1344 (Amended)
H.B. 2753 (Amended)

Senator Parker submitted the following report for the Committee on Education:

H.B. 1950
H.B. 983
H.B. 1153
H.B. 2853

H.B. 115
H.B. 2678
H.B. 1196
C.S.S.R. 362
C.S.S.B. 249
C.S.H.C.R. 41

Senator Glasgow submitted the following report for the Committee on Jurisprudence:

H.B. 581 (Amended)
H.B. 1486
H.B. 862
H.B. 3040
H.B. 1597
H.B. 1162
S.B. 1819
H.B. 153

SENATE BILLS AND RESOLUTIONS ON FIRST READING

On motion of Senator Washington and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.R. 659 by Washington Health and Human Services
Requesting that the Senate of the 71st Legislature support and endorse the State Steering Committee on Technology-Related Assistance.

S.C.R. 155 by Barrientos Jurisprudence
Granting Nellie Yocum permission to sue the State of Texas and the Texas Board of Private Investigators and Private Security Agencies.

S.C.R. 156 by Barrientos Jurisprudence
Granting Yvonne and Stanley Cramer, on behalf of their son, Aaron R. Cramer, permission to sue the State of Texas and the State Department of Highways and Public Transportation.

S.C.R. 157 by Krier, Sims Administration
Requesting that the Lieutenant Governor and the Speaker of the House of Representatives appoint a Special Committee on the Edwards Aquifer.

S.C.R. 158 by Krier Administration
Requesting that the Lieutenant Governor and the Speaker of the House of Representatives create the Special Committee on Biotechnology in Texas.

S.B. 1847 by Brown Economic Development
Relating to structures required to be inspected for the purposes of obtaining windstorm and hail insurance from the Texas Catastrophe Property Insurance Association.

S.B. 1848 by Barrientos Education
Relating to a pilot program for intervention strategies for elementary school students at risk of dropping out of school.

S.B. 1849 by Barrientos Education
Relating to the recruitment of women and ethnic minorities into programs of medical and health care professions at institutions of higher education.

S.B. 1850 by Brooks State Affairs
Relating to the payment of certain laborers, workers, and mechanics under public works contracts.

S.B. 1851 by Dickson Intergovernmental Relations
Relating to the juvenile boards in Blanco, Burnet, Llano, Mason, and San Saba counties.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

- H.B. 109**, To Committee on Jurisprudence.
- H.B. 198**, To Committee on Criminal Justice.
- H.B. 377**, To Committee on Criminal Justice.
- H.B. 439**, To Committee on Criminal Justice.
- H.B. 646**, To Committee on Criminal Justice.
- H.B. 1225**, To Committee on Finance.
- H.B. 1280**, To Committee on State Affairs.
- H.B. 1292**, To Committee on Education.
- H.B. 1582**, To Committee on Criminal Justice.
- H.B. 1590**, To Committee on Intergovernmental Relations.
- H.B. 1614**, To Committee on Intergovernmental Relations.
- H.B. 1827**, To Committee on Economic Development.
- H.B. 1831**, To Committee on Finance.
- H.B. 1856**, To Committee on Jurisprudence.
- H.B. 1986**, To Committee on Intergovernmental Relations.
- H.B. 2117**, To Committee on Health and Human Services.
- H.B. 2119**, To Committee on Natural Resources.
- H.B. 2150**, To Committee on State Affairs.
- H.B. 2179**, To Committee on Economic Development.
- H.B. 2191**, To Committee on Intergovernmental Relations.
- H.B. 2192**, To Committee on Education.
- H.B. 2262**, To Committee on Natural Resources.
- H.B. 2286**, To Committee on Economic Development.
- H.B. 2298**, To Committee on Jurisprudence.
- H.B. 2321**, To Committee on Education.
- H.B. 2322**, To Committee on Education.
- H.B. 2340**, To Committee on Jurisprudence.
- H.B. 2341**, To Committee on Natural Resources.
- H.B. 2355**, To Committee on Natural Resources.
- H.B. 2379**, To Committee on Health and Human Services.
- H.B. 2606**, To Committee on Economic Development.
- H.B. 2691**, To Committee on State Affairs.
- H.B. 2796**, To Committee on Intergovernmental Relations.
- H.B. 2805**, To Committee on Intergovernmental Relations.
- H.B. 2808**, To Committee on State Affairs.
- H.B. 2816**, To Committee on Education.
- H.B. 2817**, To Committee on Education.
- H.B. 2819**, To Committee on Natural Resources.
- H.B. 2823**, To Committee on Criminal Justice.
- H.B. 2887**, To Committee on State Affairs.
- H.B. 2931**, To Committee on Intergovernmental Relations.
- H.B. 2959**, To Committee on Finance.
- H.B. 2979**, To Committee on Health and Human Services.
- H.B. 2987**, To Committee on Jurisprudence.

H.B. 3087, To Committee on Natural Resources.
H.B. 3099, To Committee on Natural Resources.
H.B. 3100, To Committee on Natural Resources.
H.B. 3105, To Committee on Health and Human Services.
H.B. 3115, To Committee on Intergovernmental Relations.
H.B. 3122, To Committee on Natural Resources.
H.B. 3133, To Committee on Natural Resources.
H.B. 3135, To Committee on Intergovernmental Relations.
H.B. 3136, To Committee on Natural Resources.
H.B. 3138, To Committee on Intergovernmental Relations.
H.B. 3143, To Committee on Intergovernmental Relations.
H.B. 3144, To Committee on Intergovernmental Relations.
H.B. 3168, To Committee on Health and Human Services.
H.B. 3172, To Committee on Natural Resources.
H.B. 3175, To Committee on Intergovernmental Relations.

CO-SPONSOR OF HOUSE BILL 3

On motion of Senator Parker and by unanimous consent, Senator Zaffirini will be shown as Co-sponsor of H.B. 3.

CO-SPONSORS OF HOUSE BILL 318

On motion of Senator Edwards and by unanimous consent, Senators Parmer and Johnson will be shown as Co-sponsors of H.B. 318.

CO-SPONSOR OF HOUSE BILL 1507

On motion of Senator Edwards and by unanimous consent, Senator Tejeda will be shown as Co-sponsor of H.B. 1507.

CONFERENCE COMMITTEE REPORT SENATE BILL 297

Senator Caperton submitted the following Conference Committee Report:

Austin, Texas
May 17, 1989

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 297 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

CAPERTON
PARKER
DICKSON
HENDERSON
BIVINS
On the part of the Senate

VALIGURA
DUTTON
A. HILL
C. HARRIS
PARKER
On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the certification and reimbursement for expenses of shorthand reporters.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 52.021, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A person who has successfully completed a registered professional reporter's examination administered by the National Shorthand Reporters Association having standards and requirements equivalent to or more difficult than those prescribed by this chapter, who has made proper application for and successfully passed Part B of the certification examination administered by the Court Reporters Certification Board, and who has been actively engaged in the practice of shorthand reporting while maintaining continuous membership in the national association is entitled to be certified to the supreme court in the manner provided by Section 52.024.

SECTION 2. Subsection (b), Section 52.055, Government Code, is amended to read as follows:

(b) Travel expenses reimbursed under this section may not exceed 25 [15-a day for hotel bills, 6 cents per mile for train or bus fares, and 16] cents per mile for the use of private conveyances, traveling the shortest practical route.

SECTION 3. Chapter 52, Government Code, is amended by adding Section 52.058 to read as follows:

Sec. 52.058. EXPENSES OF DISTRICT COURT REPORTERS IN CHANGE OF VENUE CASES. (a) Each official or deputy court reporter of a district court is entitled to reimbursement in the amount prescribed by Subsection (b) for reasonable and necessary expenses incurred while engaged in official duties during a trial being held under a change of venue order in any county of the state other than the county of the reporter's residence. This reimbursement is in addition to the reporter's regular salary.

(b) Travel expenses reimbursed under this section may not exceed 25 cents per mile for the use of private conveyances, traveling the shortest practical route.

(c) The expenses shall be reimbursed as provided by Sections 52.055(c) and (e).

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE RESOLUTION 675

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Miguel Castillo Mojica for his invaluable work on behalf of new residents of Texas from Mexico, Central America, and South America; and

WHEREAS, Since his retirement on January 1, 1986, Mike has devoted much of his time to helping meet the spiritual needs of these people as pastor of the Mission Bautista Lanier; and

WHEREAS, He also makes himself available to them for help in securing legal status and in adapting themselves to the culture and lifestyle of the United States; and

WHEREAS, As a member of the Texas Baptist Disaster Team, he has served with that team in Honduras following the devastating hurricane and in Mexico City after the earthquake which ravaged that city several years ago; and

WHEREAS, When Mike found out the small village of Bustamante in Mexico had been overlooked in the distribution of food, clothing, and other supplies, he supervised the collection of blankets, cooking pots and dishes, food, and clothing, and with a group of men, made two trips to the village to deliver the provisions; and

WHEREAS, After discovering that a group of men from Mexico and Central America had worked for months without being paid, he successfully pleaded their case and helped collect what was owed them; and

WHEREAS, He reaches out to those in need who do not know how to claim their rights as human beings; and

WHEREAS, Mr. Mojica regularly takes newly legalized Spanish-speaking men and women shopping, to church, to the doctor or lawyer, often serving as interpreter; and

WHEREAS, He has opened his heart and his home to them for fellowship and meals; with his assistance, many have learned how to telephone home and how to send money safely back to their families; and

WHEREAS, No job is too large or too small for Mike to come to the aid of the people he has made his special charges; and

WHEREAS, If they need help with income tax forms, with repairs on their cars, with taking a driver's license test, or finding a job, Mike is there to offer his assistance; and

WHEREAS, He is truly an inspiration and an example to others and is worthy of special legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, hereby commend Mr. Miguel Castillo Mojica for his lifetime of service and for his humanitarian efforts on behalf of the people of Mexico, Central America, and South America; and, be it further

RESOLVED, That a copy of this Resolution be prepared for this distinguished gentleman as a token of the deep gratitude and appreciation of the Texas Senate.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senator Barrientos introduced, and escorted to the President's Rostrum, Mr. and Mrs. Miguel Castillo Mojica.

Mr. Mojica was presented a copy of S.R. 675 and received the plaudits of the Senate.

SENATE BILL 594 WITH HOUSE AMENDMENTS

Senator Sims called S.B. 594 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment - Danburg

Amend S.B. 594 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 443.003, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The chairman of the permanent advisory committee established under Section 443.008(a) serves as an ex officio, nonvoting member of the board.

SECTION 2. Section 443.004(b), Government Code, is amended to read as follows:

(b) The board shall meet at least quarterly each ~~[twice a]~~ year and at other times at the call of the governor and as provided by board rules.

SECTION 3. Section 443.005(a), Government Code, is amended to read as follows:

(a) The board shall employ an architect of the Capitol who serves ~~[for a four-year renewable contract period]~~ under the sole direction of the board.

SECTION 4. Section 443.007(b), Government Code, is amended to read as follows:

(b) The board may adopt rules concerning the buildings, their contents, and their grounds. The board may allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility [agencies].

SECTION 5. Chapter 443, Government Code, is amended by adding Section 443.0071 to read as follows:

Sec. 443.0071. REVIEW OF CONSTRUCTION IN CAPITOL COMPLEX. (a) A proposal to construct a building, monument, or other improvement in the capitol complex must be submitted to the board for its review and comment before contracts for the construction are executed.

(b) In this section, "capitol complex" means the state-owned property within the area bounded on the north by Martin Luther King, Jr., Boulevard, bounded on the east by Trinity Street, bounded on the south by 10th Street, and bounded on the west by Lavaca Street.

SECTION 6. Section 443.008(a), Government Code, is amended to read as follows:

(a) The board shall appoint a permanent advisory committee consisting of the executive director of the Texas Historical Commission, chairman of the Antiquities Committee, director of the Texas State Library and Archives Commission, director of the Texas Commission on the Arts, and three citizens, one each appointed by the governor, lieutenant governor, and speaker of the house of representatives. At its first meeting in each odd-numbered year, the board shall designate a chairman for the committee from among the committee's members. The person designated serves in that capacity until a successor is designated.

SECTION 7. Sections 443.009(a) and (b), Government Code, are amended to read as follows:

(a) The board, the architect of the Capitol, or the curator of the Capitol may not move the office of the governor, lieutenant governor, speaker of the house of representatives, or a member of the legislature from the Capitol unless the removal is approved by the governor in the case of the governor's office, the lieutenant governor in the case of the lieutenant governor's office, the speaker of the house of representatives in the case of the speaker's office, or the house of the legislature in which the member serves in the case of a legislative member's office.

(b) The board, the architect of the Capitol, and the curator of the Capitol have no control over the furniture, furnishings, and decorative objects in the offices of the members of the legislature except as necessary to inventory or conserve items of historical value owned by the state.

SECTION 8. Chapter 443, Government Code, is amended by adding Section 443.0101 to read as follows:

Sec. 443.0101. CAPITOL FUND. (a) Money and securities donated to the board shall be held in trust outside the treasury by the state treasurer in a special fund to be known as the Capitol fund. The treasurer shall manage and invest the fund on behalf of the board as directed or agreed to by the board.

(b) Interest, dividends, and other income of the fund shall be credited to the fund.

(c) The architect of the Capitol shall submit to the board a detailed annual report on the fund. That report shall describe the status of the fund and shall list

all donations to the fund, including the name of each donor, and all disbursements from the fund, including the purpose of each disbursement.

SECTION 9. Chapter 443, Government Code, is amended by adding Section 443.013 to read as follows:

Sec. 443.013. VENDING FACILITIES. (a) The board may approve one or more vending facilities in the Capitol and determine the location of facilities, including vending machines. A vending facility may not be operated in the Capitol without the approval of the board.

(b) The board may charge a vendor a reasonable fee for the right to operate in the Capitol and may charge a royalty on items sold. Revenue from fees and royalties shall be deposited in the capitol fund.

(c) Chapter 94, Human Resources Code, does not apply to a vending facility approved by the board under this section.

SECTION 10. The operation of a vending facility in the Capitol under the authority of Section 443.013, Government Code, as it existed prior to January 1, 1989, and all acts of the State Preservation Board in regard to the operation of that facility, are validated. Proceeds of fees and royalties collected from vendors and suppliers under that section before the effective date of this Act shall be deposited to the credit of the Capitol fund as provided by Section 443.0101, Government Code, as added by this Act.

SECTION 11. As soon as possible on or after the effective date of this Act, the State Preservation Board shall designate a chairman of the permanent advisory committee created under Section 443.008(a), Government Code. The term as chairman of the person serving as chairman before that date expires on that date.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment - Kuempel

Amend C.S.S.B. 594 as follows:

(1) On page 1, line 20, strike "Section 443.007(b), Government Code, is" and substitute "Sections 443.007(b) and (c), Government Code, are".

(2) On page 2, between lines 2 and 3, insert the following:

(c) Any power or duty related to the buildings and formerly vested in the Texas Commission on the Arts, State Purchasing and General Services Commission, Antiquities Committee, Texas Historical Commission, Texas State Library and Archives Commission, or any other entity or state agency is vested solely in the board.

The amendments were read.

Senator Sims moved to concur in the House amendments to S.B. 594.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 589 WITH HOUSE AMENDMENT

Senator Carriker called S.B. 589 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment on Third Reading - Oakley

Amend S.B. 589 on page 2, line 17, by inserting the following immediately after "Foundation.": The designated agency shall employ a Motorcycle Safety Foundation certified chief instructor as program director.

The amendment was read.

On motion of Senator Carriker and by unanimous consent, the Senate concurred in the House amendment to S.B. 589 viva voce vote.

SENATE BILL 737 WITH HOUSE AMENDMENT

Senator Ratliff called S.B. 737 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Connelly

Amend S.B. 737 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 13, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. APPLICATIONS; ~~[AND—REGISTRATION]~~ FEES.

(a) Applications for registration shall be on forms prescribed and furnished by the Board, be sworn, and [shall] contain:

(1) statements [made under oath,] showing personal information about the applicant, as required by Board rule, and describing the applicant's education; [and]

(2) a detailed summary of the applicant's [his] actual engineering work;[;]

(3) a statement describing any earlier professional engineering registrations or denials, revocations or suspensions of professional engineering registrations of the applicant;

(4) a statement describing any criminal offenses of which the applicant has been convicted; and [shall contain]

(5) not less than five (5) references from individuals with personal knowledge of the applicant's character, reputation, and general suitability for registration, of whom three (3) or more shall be registered engineers having personal knowledge of the applicant's [his] engineering experience.

(b) The Board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed:

1. Registration fee	\$ 50
2. Annual renewal fee	45
3. Reciprocal registration fee	50
4. Duplicate certificate of registration	5
5. Engineer-in-training certificate	15
6. Roster of engineers	10
7. Examination fee	100 [75]

(c) The Board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement.

(d) The Board by rule may adopt reduced registration fees for registered engineers who are at least 65 years of age.

SECTION 2. Section 22, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 22. DENIAL, REVOCATION, SUSPENSION, PROBATION, REPRIMAND, RE-ISSUANCE AND REFUSAL OF CERTIFICATE. (a) The

Board shall revoke, suspend, or refuse to renew a registration, shall reprimand a registrant, may deny an application for registration, or may probate any suspension of any registrant who is determined by the Board to be [found guilty of] censurable for:

(1) ~~[(a)]~~ The practice of any fraud or deceit in obtaining a certificate of registration;

(2) ~~[(b)]~~ Any gross negligence, incompetency, or misconduct in the practice of professional engineering as a registered professional engineer;

(3) Any documented instance of retaliation by an applicant against an individual who has served as a reference for that applicant; or

(4) ~~[(c)]~~ A violation of this Act or a Board rule.

(b) Any person who may feel himself aggrieved by reason of the revocation of his certificate of registration by the Board, as hereinabove authorized, shall have the right to file suit in the district court of the county of his residence, or of the county in which the alleged offense relied upon as grounds for revocation took place, to annul or vacate the order of the Board revoking the certificate of registration.

(c) If the Board proposes to suspend or revoke a person's certificate of registration, the person is entitled to a hearing before the Board. Proceedings for the suspension or revocation of a certificate of registration are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) The Board, for reasons it may deem sufficient, may re-issue a certificate of registration to any person whose certificate has been revoked, provided six (6) or more members of the Board vote in favor of such re-issuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the Board.

SECTION 3. The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) is amended by adding Section 26 to read as follows:

Sec. 26. CONFIDENTIALITY OF CERTAIN INFORMATION. A statement made by a person providing a reference for an applicant and other pertinent information compiled by or submitted to the board relating to an applicant for registration under this Act is privileged and confidential, and may be used only by the board or employees or agents of the Board who are directly involved in the application or registration process. The information is not subject to discovery, subpoena, or other disclosure.

SECTION 4. Section 16, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16. EXPIRATIONS AND RENEWALS; (a) It shall be the duty of the Board to notify every person registered under this Act of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate to the last address provided by the registrant to the Board.

(b) A person may renew an unexpired certificate of registration by paying to the Board before the expiration date of the certificate of registration the required renewal fee.

(c) If a person's certificate of registration has been expired for no longer than 90 days, the person may renew the certificate of registration by paying to the Board the required renewal fee and a ~~[fee that is one-half of the application fee for the certificate of registration.]~~ penalty fee as set by the Board.

(d) If a person's certificate of registration has been expired for longer than 90 days but less than two years, the person may renew the certificate of registration by paying to the Board all unpaid renewal fees and a ~~[fee that is equal to the application fee for the certificate of registration.]~~ penalty fee as set by the Board.

(e) If a person's certificate of registration has been expired for two years or longer, the person may not renew the certificate of registration. The person may obtain a new certificate of registration by complying with the requirements and procedures for obtaining an original certificate of registration that are in effect at the time the person applies.

SECTION [4-] 5. (a) This Act takes effect September 1, 1989.

(b) Section 13(d), The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), as added by this Act, applies only to a fee for an original or renewal registration issued on or after December 31, 1989.

SECTION [5-] 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Ratliff and by unanimous consent, the Senate concurred in the House amendment to S.B. 737 viva voce vote.

SENATE BILL 936 WITH HOUSE AMENDMENTS

Senator Ratliff called S.B. 936 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment - Jones

Amend S.B. 936 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. The heading of Section 157.002, Local Government Code, is amended to read as follows:

Sec. 157.002. MEDICAL CARE, HOSPITALIZATION, AND INSURANCE IN COUNTIES ~~[OF 500,000 OR MORE]~~.

SECTION 2. Section 157.002, Local Government Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) ~~The [in a county with a population of 500,000 or more, the]~~ commissioners court by rule may provide for medical care and hospitalization and may provide for compensation, accident, hospital, and disability insurance for the following persons if their salaries are paid from the funds of the county or of a flood control district located entirely in the county:

(1) deputies, assistants, and other employees of the county, or of the flood control district, who work under the commissioners court or its appointees;

(2) deputies and assistants appointed under Subchapter A, Chapter 151, by county and district officers;

(3) officers of the county;

(4) any retired person formerly holding any status listed above; and

(5) the dependents of any person listed above.

(f) A county that provides for coverage under this section may reinsure its liability or purchase stop-loss coverage, provided by an insurance company admitted to do business in the state of Texas and possessing a certificate of authority from the State Board of Insurance, and must purchase such coverage for any amount in excess of 125 per cent of projected paid losses.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days

in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Local and Consent Calendars
Committee Amendment - J. Johnson

Amend C.S.S.B. 936, on page 2, by striking Section 2 and inserting in lieu thereof the following:

SECTION 2. Section 157.002, Local Government Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) The [in a county with a population of 500,000 or more, the] commissioners court by rule may provide for medical care and hospitalization and may provide for compensation, accident, hospital, and disability insurance for the following persons if their salaries are paid from the funds of the county or of a flood control district located entirely in the county or if they are employees of another governmental entity for which the county is obligated to provide benefits:

(1) deputies, assistants, and other employees of the county, or of the flood control district, who work under the commissioners court or its appointees; [and]

(2) county and district officers and their deputies and assistants appointed under Subchapter A, Chapter 151 [-by county and district officers.];

(3) employees appointed under Section 10(a), Article 42.12, Code of Criminal Procedure;

(4) any retired person formerly holding any status listed above; and

(5) the dependents of any person listed above.

(f) A county providing coverage under this section shall reinsure its potential liability or purchase stop-loss coverage for any amount of potential liability that is in excess of 125 percent of projected paid losses and may reinsure its potential liability or purchase stop-loss coverage for any amount of potential liability that is 125 percent or less of projected paid losses. A county must reinsure the liability or purchase stop-loss coverage from an insurance company admitted to do business in this state that has a certificate of authority from the State Board of Insurance.

The amendments were read.

Senator Ratliff moved to concur in the House amendments to S.B. 936.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1289 WITH HOUSE AMENDMENT

Senator Brown called S.B. 1289 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Local and Consent Calendars
Committee Amendment - Robnett

Amend S.B. 1289 by deleting Subsection (e) of Sec. 24.0061 of SECTION 5, and substituting in lieu thereof the following:

"(e) The officer may not require the landlord to store the property."

The amendment was read.

On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendment to S.B. 1289 viva voce vote.

SENATE BILL 1675 WITH HOUSE AMENDMENT

Senator Zaffirini called **S.B. 1675** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Yost

Amend **S.B. 1675** as follows:

- (1) On page 1, line 3 strike "Live Oak County" and insert "Brush Country".
- (2) On page 1, line 17 strike "Live Oak County" and insert "Brush Country".

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **S.B. 1675**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 652 WITH HOUSE AMENDMENT

Senator Washington called **S.B. 652** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Haggerty

Amend **S.B. 652** as follows:

On page 1, line 10, strike "200,000" and substitute "125,000".

The amendment was read.

On motion of Senator Washington and by unanimous consent, the Senate concurred in the House amendment to **S.B. 652** viva voce vote.

SENATE BILL 1060 WITH HOUSE AMENDMENT

Senator Henderson called **S.B. 1060** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Local and Consent Calendars**Committee Amendment - Earley**

On line 21, amend SECTION 2. of **S.B. 1060** by adding the following:

(c) The definition of charitable organizations shall meet those established by the federal Internal Revenue Service.

Renumber all subsequent sections.

The amendment was read.

On motion of Senator Henderson and by unanimous consent, the Senate concurred in the House amendment to **S.B. 1060** viva voce vote.

SENATE BILL 985 WITH HOUSE AMENDMENT

Senator Caperton called **S.B. 985** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - Williamson

Amend **S.B. 985** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Title 70, Revised Statutes, is amended by adding Article 4348e to read as follows:

Art. 4348e. THE UNIFORM STATEWIDE ACCOUNTING SYSTEM.

Sec. 1. DEFINITIONS. In this Act: (1) "Committee" means the Uniform Statewide Accounting System Committee.

(2) "Comptroller" means the comptroller of public accounts.

(3) "NACUBO" means the National Association of College and University Business Officers.

(4) "State agency" has the meaning assigned in Section 3, Article 4348, Revised Statutes.

(5) "Uniform statewide accounting system" encompasses all the components of that system as designed in accordance with Chapter 852, Acts of the 70th Legislature, Regular Session (Article 4348d, Vernon's Texas Civil Statutes), including the statewide payroll component.

(6) "Financial management information" includes, but is not limited to, encumbrance information and performance and workload measurement information.

Sec. 2. THE COMMITTEE. (a) The committee consists of:

(1) the comptroller of public accounts, who shall be chairman;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the treasurer;

(6) the state auditor; and

(7) a representative from the Texas Higher Education

Coordinating Board.

(b) The committee shall meet at times to be determined by its members. A member of the committee may designate another person to serve in his place. However, the designee of the lieutenant governor must be a member of the senate, and the designee of the speaker of the house of representatives must be a member of the house of representatives.

(c) The members of the committee are entitled to reimbursement of their expenses as provided by law.

(d) The committee shall advise the comptroller concerning:

(1) the implementation of the uniform statewide accounting system in accordance with generally accepted accounting principles, including the guidelines of NACUBO;

(2) the development and implementation of a centralized calculation and reporting function for the statewide payroll component of the uniform statewide accounting system during the implementation of that system;

(3) the inclusion of institutions of higher education in the centralized calculation function of the statewide payroll component of the uniform statewide accounting system; and

(4) other similar matters.

Sec. 3. DUTIES OF THE COMPTROLLER. (a) The state government accounting division is established in the office of the comptroller. The comptroller shall appoint a person to serve as director of the division who shall serve

at the will and direction of the comptroller. The director, with the approval of the comptroller, shall hire staff necessary to carry out the provisions of this Act.

(b) The comptroller, through the state government accounting division, shall cooperate and consult with the committee during the implementation of the uniform statewide accounting system.

(c) The comptroller may, by rule, require state agencies either to modify or to delay or cease the implementation of their individual accounting and payroll systems so that those systems successfully interface with the uniform statewide accounting system. The expenditure of state funds for the establishment, modification, or maintenance of individual accounting or payroll systems must be in accordance with any rules regarding the development, implementation, or use of the uniform statewide accounting system.

(d) The comptroller shall implement the uniform statewide accounting system in accordance with generally accepted accounting principles, including the guidelines of NACUBO. The comptroller shall ensure that the system encompasses all state agencies. However, the comptroller may, after consulting with the committee, exclude any state agency from the centralized calculation function of the statewide payroll component of the uniform statewide accounting system.

(e) The comptroller may contract for the goods and services that are necessary to carry out the provisions of this Act. Those contracts are not subject to the provisions of Chapter 773, Acts of the 66th Legislature, Regular Session, 1979; Chapter 38, Acts of the 62nd Legislature, Regular Session 1971; Chapter 463, Government Code, or any successor in function; Chapter 454, Acts of the 65th Legislature, Regular Session 1977; and, H.B. No. 2736, Acts of the 71st Legislature, Regular Session, 1989.

(f) To ensure reporting of comprehensive financial management information on an ongoing basis, the comptroller shall require state agencies to report the necessary data to the uniform statewide accounting system on a timely basis. The reports shall comply with the comptroller's rules and procedures for content and frequency.

(g) The comptroller shall be responsible for the administration, maintenance, and modification of the uniform statewide accounting system on an ongoing basis.

(h) The comptroller shall promulgate rules for the effective operation of the uniform statewide accounting system.

Sec. 4. DUTIES OF THE STATE AUDITOR. The state auditor, when reviewing the operations of state agencies, shall audit for compliance with this Act, the uniform statewide accounting system, the comptroller's rules, and the Legislative Budget Board's performance and workload measures. The state auditor shall notify the committee, the comptroller, the governor, and the Legislative Budget Board as soon as practicable when a state agency is not in compliance.

SECTION 2. Chapter 852, Acts of the 70th Legislature, Regular Session, 1987 (Article 4348d, Vernon's Texas Civil Statutes) is repealed.

SECTION 3. Section 8.01, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) is amended to read as follows:

Sec. 8.01. (a) This article applies to personal property belonging to the state. All personal property belonging to the state shall be accounted for by the head of the agency that ~~which~~ has possession of the property.

(b) The commission shall administer the property accounting system and maintain a complete and accurate set of centralized records of state property based on information supplied by state agencies or the uniform statewide accounting system. The property accounting system shall, to the extent possible, constitute the fixed asset component of the uniform statewide accounting system. ~~[The state auditor shall administer the property responsibility system.]~~ The

commission shall coordinate with the comptroller in issuing ~~[issue]~~ rules, ~~[and regulations]~~ instructions, and ~~[a manual of instruction and prescribe such records, reports, and forms]~~ necessary requirements for the property accounting system ~~[to accomplish the objects of this article subject to the approval of the state auditor]~~. The rules, instructions, and requirements must be consistent with the requirements of the uniform statewide accounting system. ~~[The state auditor is directed to cooperate with the commission in the exercise of the commission's rulemaking powers herein granted by giving technical assistance and advice.]~~

(c) ~~[The commission shall maintain a complete and accurate set of centralized records of state property.]~~ Where the commission finds that an agency has demonstrated its ability and competence to maintain complete and accurate detailed records of the property it possesses without the detailed supervision by the commission, it may direct that the detailed records be kept at the principal office of such agency. Where the commission issues such order, it shall keep only summary records of the property of such agency and the agency shall keep such detailed records as the commission directs and furnish the commission with such reports at such times as directed by the commission.

(d) Each agency head shall cause each item of state property possessed by his agency to be marked so as to identify it. The agency head shall follow the instructions issued in marking state property.

SECTION 4. This Act takes effect September 1, 1989, contingent upon sufficient funds being appropriated to and available for the comptroller to implement and administer this Act.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Caperton moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 985 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Caperton, Chairman; McFarland, Montford, Sims and Krier.

SENATE BILL 413 WITH HOUSE AMENDMENTS

Senator Harris called S.B. 413 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment - A. Smith

Amend S.B. 413 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Chapter 26, Business & Commerce Code, is amended by adding Section 26.02 to read as follows:

Sec. 26.02. LOAN AGREEMENT MUST BE IN WRITING. (a) In this section:

(1) "Financial institution" means a state or federally chartered bank, savings bank, savings and loan association, or credit union, a holding company, subsidiary, or affiliate of such an institution, or a lender approved by the United States Secretary of Housing and Urban Development for participation in a mortgage insurance program under the National Housing Act (12 U.S.C. Section 1701 et seq.).

(2) "Loan agreement" means one or more promises, promissory notes, agreements, undertakings, security agreements, deeds of trust or other documents, or commitments, or any combination of those actions or documents, pursuant to which a financial institution loans or delays repayment of, or agrees to loan or delay repayment of, money, goods, or another thing of value or to otherwise extend credit or make a financial accommodation. The term does not include a promise, promissory note, agreement, undertaking, document, or commitment relating to:

(A) a credit card or charge card; or

(B) an open-end account, as that term is defined by Article 1.01, Title 79, Revised Statutes (Article 5069-1.01, Vernon's Texas Civil Statutes), intended or used primarily for personal, family, or household use.

(b) A loan agreement in which the amount involved in the loan agreement exceeds \$50,000 in value is not enforceable unless the agreement is in writing and signed by the party to be bound or by that party's authorized representative.

(c) The rights and obligations of the parties to an agreement subject to Subsection (b) of this section shall be determined solely from the written loan agreement, and any prior oral agreements between the parties are superseded by and merged into the loan agreement.

(d) An agreement subject to Subsection (b) of this section may not be varied by any oral agreements or discussions that occur before, contemporaneously with, or subsequent to the execution of the agreement.

(e) In a loan agreement subject to Subsection (b) of this section, the financial institution shall give notice to the debtor or obligor of the provisions of Subsections (b) and (c) of this section. The notice must be in a separate document signed by the debtor or obligor or incorporated into one or more of the documents constituting the loan agreement. The notice must be in type that is boldfaced, capitalized, underlined, or otherwise set out from surrounding written material so as to be conspicuous. The notice must state substantially the following:

"This written loan agreement represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.

"There are no unwritten oral agreements between the parties.

"Debtor or Obligor Financial Institution"

SECTION 2. This Act takes effect September 1, 1989, and applies only to a loan agreement executed on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - A. Smith

Amend C.S.S.B. 413 as follows:

(1) On page 2, line 16, between "before" and "contemporaneously" strike "1" and insert "or".

(2) On page 2, line 16, strike ", or subsequent to".

(3) On page 3, line 2, between "prior" and "contemporaneous" strike "1" and insert "or".

(4) On page 3, lines 2 and 3, between "contemporaneous" and "oral" strike ", or subsequent".

(5) On page 3, line 8, at the end of Section 1 and before Section 2, insert the following new paragraph.

If the required notice is not given on or before execution of the loan agreement, or is not conspicuous, then this section 26.02 does not apply to the loan agreement but the validity and enforceability of the loan agreement, and the rights and obligations of the parties, are not impaired or affected.

Floor Amendment No. 2 - Schlueter

Amend C.S.S.B. 413 by adding an appropriately numbered section to read as follows:

SECTION _____. Section 26.02, Business & Commerce Code, as added by this Act, does not apply to the renewal or extension of a loan agreement executed before the effective date of this Act.

The amendments were read.

Senator Harris moved to concur in the House amendments to S.B. 413.

Senator Parmer made a substitute motion that the Senate not concur in the House amendments but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The substitute motion prevailed by the following vote: Yeas 15, Nays 13.

Yeas: Barrientos, Caperton, Carriker, Dickson, Edwards, Green, Haley, Johnson, Lyon, Montford, Parmer, Truan, Uribe, Washington, Whitmire.

Nays: Armbrister, Bivins, Brooks, Brown, Harris, Henderson, Krier, Leedom, Ratliff, Santiesteban, Sims, Tejada, Zaffirini.

Absent: Glasgow, McFarland, Parker.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 413 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chairman; Haley, Bivins, Caperton and Parmer.

SENATE BILL 58 WITH HOUSE AMENDMENT

Senator Barrientos called S.B. 58 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment - Guerrero

Amend S.B. 58 as follows:

(1) After the heading of Section 1 ("INCREASE IN CERTAIN ANNUITIES."), insert "(a)".

(2) At the end of existing Section 1, insert the following subsection:

(b) Annuities that are described by Subsection (a), Section 24.601, Title 110B, Revised Statutes, and that are based on service retirements that occurred after October 31, 1986, and before June 1, 1987, are increased by five percent, if the actuary for the Employees Retirement System of Texas certifies, based on an August 31, 1989, actuarial valuation, that all annuity increases, annuity recomputations, and retirement annuity formula increases required or authorized by this Act, including the increase provided by this subsection, together with all other actuarial liabilities resulting from legislation that is enacted by the 71st Legislature in 1989 and that has or will become law, will not cause the time required to amortize the unfunded actuarial liabilities of the retirement system to be increased to a period that exceeds 31 years. For purposes of this subsection, a bill will become law if it has not taken effect but either has been signed by the governor or the time provided for gubernatorial action under Article IV, Section 14, of the Texas Constitution has expired without the governor having vetoed the bill. The five percent increase in annuities for service retirements that occurred after October 31, 1986, and before June 1, 1987, is payable beginning with the first monthly payments of the annuities that become due after the month in which the actuarial certification required by this subsection is made to the board of trustees of the retirement system.

The amendment was read.

MOTION TO CONCUR

Mr. President and Members, I plan to make a motion to concur in the House amendment to Senate Bill 58, the employee retirement increase bill that Senator Montford and I co-sponsored. But before I do that, I'd like to be recognized on a matter of personal privilege.

Members, I don't think there is anyone who would question my record as an advocate for State employees and retired State employees. That is the reason I was pleased to sponsor Senate Bill 58, which raised the retirement benefits of most, and I emphasize the word most, retirees and all future State retirees covered by the Employee Retirement System. It passed the House with amendments one month ago today. I have waited to concur until today because it took that long for my anger to subside. My anger concerns those retirees who were left out of Senate Bill 58, and the experience my office has had with the Director of the Employee Retirement System in attempting to include them in the benefit increase. To say that this Member of the Senate and the rest of the Legislature have been the victims of misinformation from the Employee Retirement System is an understatement.

I will not take the Senate's time with unnecessary details. The fact is that E.R.S. under Clayton Garrison's direction wrote Senate Bill 58 and deliberately excluded from a benefit increase the 3,000 State retirees who retired under H.B. 40, the early retirement incentive bill passed during the special session. Members, these H.B. 40 retirees are the ones who were given a retirement benefit increase as an incentive to save the State money during the budget crisis we faced in 1985. Senate Bill 58 as drafted by E.R.S. left out the H.B. 40 retirees but will grant to future retirees the same retirement benefits we gave as a special incentive to these 3,000 people as a favor for helping us save millions of dollars in salary during a budget crunch. These

3,000 people would go up to four years with no benefit increase while current employees, presumably including the Director of E.R.S., could retire with the same benefit formula plus the added advantage of having worked a few years longer and having their retirement benefit reflect higher salaries.

I tried to get these employees included in **S.B. 58** but was given an actuarial analysis by the head of E.R.S. that indicated that if they were included, the entire bill was jeopardized by the legal requirement that the retirement fund have no more than 31 years of unfunded liability. The very day I passed **S.B. 58** I came into possession of a letter from Mr. Garrison to Senator Caperton. It was an actuarial update that seemed to indicate we could easily include the **H.B. 40** retirees. Two days later, I got a letter from Mr. Garrison in explanation of the exclusion of **H.B. 40** retirees. In that letter he continued to refer to the old data, not the updated actuarial data he supplied Senator Caperton. I suppose he presumed that Senator Caperton and I, who both represent large numbers of State employees, don't communicate. I suppose he thought if I were kept in the dark, my efforts to include **H.B. 40** retirees would cease. Fortunately I did not stop. With the help of Representative Kuempel, the House sponsor of **S.B. 58**, and Representative Lena Guerrero, who sponsored **H.B. 40** in 1985, we drafted an amendment that makes it possible that **H.B. 40** retirees will get a 5% benefit increase. But they can still be excluded if the actuarial analysis says it would exceed the 31-year unfunded liability limit.

Last session Representative Kuempel passed a bill increasing the retirement formula from 1.5 times the first ten years of service to 1.8 times the first ten years of service. He wanted to make the formula two times the first ten years of service, the level of the bill, **S.B. 58**, before us today. But Clayton Garrison produced an actuarial analysis that said to do so would exceed the 31-year limit. So Representative Kuempel lowered the retirement benefits. Members, do you know what happened? Today, despite benefit increases, instead of having an unfunded liability, the Employee Retirement System is overfunded. And retirees have lower benefits than we could have granted two years ago. That is a disgrace and a disservice to people on fixed incomes who devoted their lives to public service.

The actuarial analyses used to lower benefits are based on the economic assumptions supplied by the leadership of the E.R.S. They have proven faulty—faulty at the expense of State employees.

At a meeting on another topic earlier this session Clayton Garrison told members of the staff of the Lieutenant Governor, Senator Caperton, Senator Montford and myself that it was his job to protect the State retirees from the Legislature. Based on his performance, I think it is the job of the Legislature to protect retirees from the head of E.R.S. And next December, when the E.R.S. performs its actuarial analysis to determine if **H.B. 40** retirees get a 5% raise, I can assure those 3,000 people I will be watching closely. Mr. President, Members, I thank you for your indulgence.

I move to concur in the House amendment to Senate Bill 58.

BARRIENTOS

The Senate concurred in the House amendment to **S.B. 58** viva voce vote.

(President in Chair)

SENATE BILL 1517 WITH HOUSE AMENDMENTS

Senator Brooks called S.B. 1517 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 on Third Reading - Valigura

Amend S.B. 1517 on page 1, line 16, by adding the following after the period:

"If a permit is otherwise required the permit proceeding shall be expedited by the department if the applicant is seeking a permit for a solid waste management facility that employs an innovative, high technology method of waste disposition and recycling."

Floor Amendment No. 2 on Third Reading - Valigura

Amend S.B. 1517 by adding after Section 1, the following new sections and renumbering accordingly:

SECTION 2. Section 2, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended by adding Subdivision (33) to read as follows:

(33) "Recycling" means the legitimate use, reuse, or reclamation of solid waste.

SECTION 3. Subchapter B, Chapter 171, Tax Code, is amended by adding Section 171.085 to read as follows:

Sec. 171.085. EXEMPTION; RECYCLING OPERATION. A corporation engaged solely in the business of recycling, as defined by Section 2, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is exempted from the franchise tax.

SECTION 4. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.006 to read as follows:

Sec. 171.006. TAX CREDIT FOR CERTAIN RECYCLING EQUIPMENT. (a) In this section:

(1) "Qualifying recycling equipment" means equipment that is used exclusively in this state and that is:

(A) a vehicle or other equipment used primarily for:
(i) gathering, hauling, or separating
materials to be recycled; or

(ii) transferring, treating, or disposing of
residual waste resulting from the recycling process;

(B) equipment used primarily for processing recycled
material and converting it into a marketable or usable form; or

(C) pollution equipment associated with an item
described by Paragraph (A) or (B).

(2) "Placed in service" refers to the date on which an item becomes qualifying recycling equipment, regardless of the date on which the item is originally purchased or used for any other purpose.

(b) A taxpayer who places in service qualifying recycling equipment for recycling waste materials is entitled to a credit against taxes imposed by this chapter in an amount equal to 50 percent of the cost of the qualifying recycling equipment.

(c) The amount of credit claimed under this section for any tax period may not exceed 50 percent of the tax liability imposed by this chapter that would be otherwise due. If an item that becomes qualifying recycling equipment is not a new item, the amount of credit that may be claimed under this section in any taxable year shall be determined using the depreciated value of the item on the date the item becomes qualifying recycling equipment. The comptroller shall adopt rules to

administer this subsection that are designed to take into account actual depreciation of an item described by this subsection.

(d) The credit may be claimed in the report for the tax period for which the tax is computed on business done in the fiscal period in which the recycling equipment is placed in service, in the manner prescribed by the comptroller. All such equipment must be used exclusively within the state.

(e) If equipment for which a credit has been received under Subsection (b) ceases to be qualifying recycling equipment, the tax imposed by this chapter is increased for the tax period for which the tax is based on business done in the fiscal period in which the equipment ceases to be qualifying recycling equipment. The amount of the increased tax is the amount of the credit originally received for that equipment, multiplied by the applicable recapture percentage. The recapture percentage is determined according to the following table:

<u>If the property ceases to be qualifying recycling equipment:</u>	<u>The recapture percentage is:</u>
<u>within one year after the date placed in service</u>	<u>100%</u>
<u>more than one year but not more than two years after the date placed in service</u>	<u>80%</u>
<u>more than two years but not more than three years after the date placed in service</u>	<u>60%</u>
<u>more than three years but not more than four years after the date placed in service</u>	<u>40%</u>
<u>more than four years but not more than five years after the date placed in service</u>	<u>20%</u>
<u>more than five years after the date placed in service</u>	<u>0%</u>

(f) The amount of any credit that the corporation would otherwise be entitled to claim but that may not be claimed because of the limitation provided by Subsection (c) on the amount of credit that may be claimed for a tax period may be claimed against the tax liability of the corporation under this chapter for a future tax period, including increased tax liability for the period under Subsection (c). A credit carried forward under this subsection must be claimed before any current credit for that period under Subsection (b). A corporation may not claim a credit carried forward under this subsection if the total taxable capital of the corporation for the tax period exceeds \$1 million.

SECTION 5. Subchapter B, Chapter 182, Tax Code, is amended by adding Section 182.0221 to read as follows:

Sec. 182.0221. GROSS RECEIPTS TAX CREDIT FOR CERTAIN RECYCLING EQUIPMENT. (a) In this section:

(1) "Qualifying recycling equipment" means equipment that is used exclusively in this state and that is:

(A) a vehicle or other equipment used primarily for:
 (i) gathering, hauling, or separating materials to be recycled; or
 (ii) transferring, treating, or disposing of residual waste resulting from the recycling process;

(B) equipment used primarily for processing recycled material and converting it into a marketable or usable form; or

(C) pollution equipment associated with an item described by Paragraph (A) or (B).

(2) "Placed in service" refers to the date on which an item becomes qualifying recycling equipment, regardless of the date on which the item is originally purchased or used for any other purpose.

(b) A taxpayer who places in service qualifying recycling equipment for recycling waste materials is entitled to a credit against taxes imposed by this

subchapter in an amount equal to 50 percent of the cost of the qualifying recycling equipment.

(c) The amount of credit claimed for any quarterly period may not exceed 50 percent of the tax liability imposed by this subchapter that would be otherwise due. If an item that becomes qualifying recycling equipment is not a new item, the amount of credit that may be claimed under this section in any quarterly period shall be determined using the depreciated value of the item on the date the item becomes qualifying recycling equipment. The comptroller shall adopt rules to administer this subsection that are designed to take into account actual depreciation of an item described by this subsection.

(d) The credit may be claimed in the report for the tax period for which this tax is computed on business done in the fiscal period in which the recycling equipment is placed in service, in the manner prescribed by the comptroller.

(e) If during any quarterly period any equipment taken into account in determining the credit imposed by this subchapter under Subsection (b) ceases to be qualifying recycling equipment, the tax imposed by this subchapter for that quarterly period is increased by the amount of the credit originally claimed for that equipment, multiplied by the applicable recapture percentage. The recapture percentage is determined according to the following table:

<u>If the property ceases to be qualifying recycling equipment:</u>	<u>The recapture percentage is:</u>
<u>within one year after the date placed in service</u>	<u>100%</u>
<u>more than one year but not more than two years after the date placed in service</u>	<u>80%</u>
<u>more than two years but not more than three years after the date placed in service</u>	<u>60%</u>
<u>more than three years but not more than four years after the date placed in service</u>	<u>40%</u>
<u>more than four years but not more than five years after the date placed in service</u>	<u>20%</u>
<u>more than five years after the date placed in service</u>	<u>0%</u>

(f) The amount of any credit that the taxpayer would otherwise be entitled to claim but that may not be claimed because of the limitation provided by Subsection (c) on the amount of credit that may be claimed for a quarterly period may be claimed against any future tax liability of the taxpayer under this subchapter, including increased tax liability under Subsection (e). A credit carried forward under this subsection must be claimed before any current credit for that period under Subsection (b). A taxpayer may not claim a credit carried forward under this subsection if the assets of the taxpayer exceed \$1 million at the end of the quarterly period for which the tax is imposed.

(g) The credit may be claimed on the taxpayer's tax return for the quarterly period in which the qualifying equipment is placed in service, in the manner prescribed by the comptroller of public accounts.

SECTION 6. (a) Sections 2 through 5 apply only to equipment placed in service on or after September 1, 1989.

(b) The change in law made by Sections 2 through 5 do not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of those sections is continued in effect for purposes of the liability for and collection of those taxes.

Floor Amendment No. 3 on Third Reading - Valigura

Amend the Valigura amendment as follows:

(1) Insert "sludge or municipal solid waste" between "recycling" and the comma before "as" on line 14 of page 1.

(2) Strike Subsection 171.006(a)(1) from line 21 of page 1 through line 9 of page 2 and substitute the following:

"(1) "Qualifying recycling equipment" means machinery, vehicles or other equipment, with a useful life in excess of six months, which are used exclusively within this state and which are:

(A) vehicles or other equipment used predominantly
for:

(i) gathering, hauling, or separating sludge
or municipal solid waste materials to be recycled into marketable or usable form;
or

(ii) transferring, treating, or disposing of
residual waste resulting from the process of recycling sludge or municipal solid waste
into marketable or usable form;

(B) equipment used predominantly for processing
recycled material from sludge or municipal solid waste and converting it into
marketable usable form; or

(C) pollution control equipment associated with an
item described in Paragraph (A) or (B)."

(3) Add a new Subsection (a)(3) to Section 171.006 at line 14 of page 2 as follows:

"(3) "Recycling", "Sludge", and "Municipal solid waste" have the
meanings assigned to them by Article 4477-7, Vernon's Texas Civil Statutes."

(4) Strike "waste materials" on line 15 of page 2 and substitute "sludge or
municipal solid waste"

(5) Add as a new last sentence to Subsection (b) of Section 171.006 at line 17 of page 2 the following:

"A corporation must maintain records to substantiate the predominant
recycling use as required by this section of any qualifying recycling equipment for
which a credit is sought for each of the five years following the date on which it is
placed in service."

(6) Strike the last sentence of Subsection 171.006(c) at lines 25 through 27 on page 2 and substitute the following:

"The depreciated value of qualifying recycling equipment must be computed
in a manner acceptable for franchise tax reporting purposes."

(7) Add at the end of Subsection (d) at line 5 on page 3 the following:

"A credit or portion of a credit which may not be used because of a limitation
imposed by this section may not be applied to any other report or to tax due with
any other report."

(8) Strike Subsection (f) of Section 171.006 in its entirety.

(9) Strike section 4 of the Committee substitute in its entirety and renumber the following sections.

The amendments were read.

Senator Brooks moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1517 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Chairman; Johnson, Zaffirini, Uribe and Whitmire.

SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Brown and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to S.B. 892.

SENATE BILL 892 WITH HOUSE AMENDMENT

Senator Brown called S.B. 892 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment - Jackson

Amend S.B. 892 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Chapter 415, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. TEXAS PEACE OFFICERS' ADVISORY COMMITTEE

Sec. 415.111. DEFINITION. In this subchapter, "advisory committee" means the Texas Peace Officers' Memorial Advisory Committee to the Commission on Law Enforcement Officer Standards and Education.

Sec. 415.112. ESTABLISHMENT OF ADVISORY COMMITTEE. The advisory committee is established to fund, design, and construct a Texas peace officers' memorial on the grounds of the Capitol Complex in honor of those Texas peace officers who have died in the line of duty.

Sec. 415.113. COMPOSITION OF ADVISORY COMMITTEE. The advisory committee is composed of:

- (1) the attorney general;
 - (2) the director of the Department of Public Safety;
 - (3) three licensed peace officers appointed by the governor;
 - (4) a surviving spouse of a Texas peace officer who died in the line of duty, appointed by the governor; and
 - (5) nine individuals, each appointed by a member of the commission;
- and

(6) the Architect of the Capitol.

Sec. 415.114. ELIGIBILITY FOR APPOINTMENT. To be eligible for appointment to the advisory committee, a person must be at least 21 years of age and a resident of this state. Each appointee must be of good character and may not have been convicted of a felony or a misdemeanor involving moral turpitude. Each appointee other than the appointee described by Section 415.113(4)(6) must meet the experience requirements prescribed for commissioners under Section 415.004. Appointments to the advisory committee shall be made without regard to the race, color, religion, sex, handicap, or national origin of the appointee. A person is not eligible for appointment to the advisory committee if the person is a commissioner, an employee of the commission, or a person who is related within the second degree by affinity or consanguinity to a member of the commission or commission employee.

Sec. 415.115. TERMS OF OFFICE; REMOVAL. (a) Members of the advisory committee hold office at the pleasure of the person having the authority to appoint them. In the event of a vacancy during a term, the member of the commission or the public official who appointed the member who has vacated the advisory committee position shall appoint a replacement who meets the qualifications of the vacated office. The term of a member on the advisory committee expires when replaced by the appointing person or when the appointing person is no longer authorized to appoint a member of the advisory committee under Section 415.113.

(b) The commission may remove an advisory committee member at any time at a regular or specially called meeting of the commission by a two-thirds vote of the members of the commission present and voting. It is a ground for removal from the advisory committee if a member does not have at the time of appointment the qualifications required for appointment to the advisory committee or does not maintain during service on the advisory committee the qualifications required for appointment to the advisory committee. The validity of an action of the advisory committee is not affected by the fact that it was taken while a ground for removal of a member of the advisory committee existed.

Sec. 415.116. MEETINGS; ORGANIZATION OF ADVISORY COMMITTEE. (a) The advisory committee shall meet at least once in each quarter of the calendar year and may meet at other times as necessary to perform its duties.

(b) The attorney general shall serve as permanent chairman. The remaining advisory committee members shall elect from among themselves the vice-chairman and secretary. Nine of the members constitute a quorum for the transaction of business.

Sec. 415.117. DUTIES. The advisory committee shall advise the commission on issues related to the funding, design, and construction of the Texas peace officers' memorial and shall develop goals, tasks, purposes, assignments, policies, rules, programs, standards, and criteria. The advisory committee's duties include:

(1) actual site selection on the grounds of the Capitol Complex, with the approval of the Architect of the Capitol and the State Preservation Board.

(2) raising of funds from private or public contributions;

(3) establishing a schedule for the design, construction, and dedication of the memorial, with the approval of the State Preservation Board;

(4) implementing procedures to solicit designs for the memorial which must be compatible in scale, proportion, materials and feeling with the early monuments erected on the Capitol Grounds, and devising a selection process and choice of the final design, with the approval of the State Preservation Board;

(5) selecting individuals or organizations to provide fund-raising services;

(6) selecting individuals or firms to construct the memorial with the approval of the State Preservation Board and the State Purchasing and General Services Commission before any contracts for the construction are executed; and

(7) reviewing and monitoring the design and construction of the memorial, with the approval of the State Preservation Board.

Sec. 415.118. REPORTS. The advisory committee shall submit reports to the commission relating to the operation of the advisory committee as required by the commission. The commission may not adopt a rule relating to the advisory committee, but the commission shall submit an oversight report on the activities of the advisory committee to the legislature immediately before the commencement of each regularly scheduled session of the legislature.

Sec. 415.119. REIMBURSEMENT. A member serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the advisory committee.

Sec. 415.120. FUNDS. All funds contributed for the Texas peace officers' memorial shall be deposited in the state treasury to the credit of the peace officers' memorial account. The advisory committee may use funds credited to the account only in administering this subchapter and performing other duties of the advisory committee established by law.

Sec. 415.121. STATEMENT OF PROGRESS. The advisory committee shall issue a report of its progress in funding, designing, and constructing the Texas peace officers' memorial.

Sec. 415.122. CEREMONIES. Peace officer memorial ceremonies, including the dedication of the memorial on the Capitol Complex grounds and any subsequent ceremonies, shall be conducted by the Combined Law Enforcement Associations of Texas.

Sec. 415.123. EXPIRATION OF COMMITTEE. The advisory committee and this subchapter expire on the dedication day of the Texas peace officers' memorial.

SECTION 2. (a) The Commission on Law Enforcement Officer Standards and Education, the governor, and the attorney general shall appoint the initial members of the Texas Peace Officers' Memorial Advisory Committee not later than January 1, 1990.

(b) Not later than the 30th day before the day on which the Texas peace officers' memorial is dedicated, the advisory committee shall publish in the Texas Register the date of the dedication and shall notify the comptroller of public accounts of that date. Any unencumbered funds remaining in the peace officers' memorial account shall be transferred to the General Revenue Fund on the date on which Subchapter F, Chapter 415, Government Code, expires.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Brown moved to concur in the House amendment to **S.B. 892**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

VOTE ON FINAL PASSAGE OF HOUSE BILL 301 RECONSIDERED

On motion of Senator Armbrister and by unanimous consent, the vote by which **H.B. 301** was finally passed was reconsidered.

Question - Shall **H.B. 301** be finally passed?

COMMITTEE SUBSTITUTE HOUSE BILL 1946 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1946, Relating to the creation of the Gulf Coast Environmental Research Consortium.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 1946 by striking all below the enacting clause and inserting in lieu thereof the following:

SECTION 1. Subchapter 3, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, is amended by adding Section 3.25 to read as follows:

Sec. 3.25. GULF COAST ENVIRONMENTAL RESEARCH CONSORTIUM.

(a) The board of directors of the Gulf Coast Waste Disposal Authority may enter into an agreement with the board of regents of the University of Houston System and the board of regents of the Lamar University System providing for the creation of the Gulf Coast Environmental Research Consortium.

(b) The agreement may provide for:

(1) the purposes of the Gulf Coast Environmental Research Consortium, which must include:

(A) conducting laboratory research concerning the improvement of methods for handling and disposing of industrial and hazardous waste; and

(B) providing continuing education symposia on regulations and technology concerning industrial and hazardous waste disposal for Galveston Bay.

(2) the consortium may serve under the operational control of Gulf Coast Waste Disposal Authority and the Hazardous Waste Research Center; and

(3) the consortium to serve as an applied science laboratory for research conducted by University of Houston-Clear Lake faculty members and students.

SECTION 2. This Act takes effect September 1, 1989.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Brown and by unanimous consent, the amendment was withdrawn.

Senator Parker offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 1946 as follows:

(1) In Section 3.25(a) (on page 1, line 30), strike "the University of Houston System and the board of regents of".

(2) In Section 3.25(b)(1)(B) (on page 1, line 41), between "disposal" and the semicolon, substitute "in the Galveston Bay area".

(3) In Section 3.25(b)(2) (on page 1, line 43), strike "of the Gulf Coast Waste Disposal Authority; and" and substitute "of the Hazardous Waste Research Center established under Section 108.051, Education Code; and".

(4) Strike Section 3.25(b)(3) (on page 1, lines 44-46), and substitute:

(3) the consortium to work in conjunction with the Hazardous Waste Research Center to accomplish the purposes prescribed in this section and in Subchapter D, Chapter 108, Education Code.

The amendment was read and was adopted viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1946 ON THIRD READING**

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.H.B. 1946 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
May 18, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 497, Relating to the continuation and functions of the Texas Animal Health Commission; providing criminal penalties.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 2552 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2552, Relating to the regulation of the manufacture, distribution, conversion, and sale of certain motor vehicles.

The bill was read second time.

Senator Edwards offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 2552** as follows:

(1) Add a new Section 35 of the bill to read as follows:

SECTION 35. Section 6.07, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended by adding Subsection (j) to read as follows:

(j) At the time that a dealer sells a new motor vehicle the dealer shall provide the buyer with a notice of the buyer's rights under this section. The notice must be in the form prescribed by the commission.

(2) Renumber sections appropriately.

The amendment was read.

On motion of Senator Edwards and by unanimous consent, the amendment was withdrawn.

Senator Edwards offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 2552 by striking Section 6.07(c), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), as amended by Section 34 of the bill, and substituting the following:

(c) If the manufacturer, converter, or distributor is unable to conform the motor vehicle to an applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and market value of the motor vehicle after a reasonable number of attempts, the manufacturer, converter, or distributor shall replace the motor vehicle with a comparable motor vehicle or accept return of the vehicle from the owner and refund to the owner the full purchase price less a reasonable allowance for the owner's use of the vehicle and any other allowances or refunds payable to the owner. Refunds shall be made to the owner and lienholder, if any, as their interests may appear. A reasonable allowance for use shall be that amount, not to exceed 10 cents a mile, directly attributable to use of the motor vehicle [prior to the first report of the nonconformity to the manufacturer or distributor, its agent, or its dealer and during any subsequent period] when the vehicle is not out of service for repair. An order to refund or to replace may not be issued by the Commission against a manufacturer, distributor, or converter unless the manufacturer, distributor, or converter has been mailed prior written notification of the alleged nonconformity or defect from or on behalf of the owner and has been given an opportunity to cure the alleged defect or nonconformity. In any hearing before the Commission under this section, a manufacturer, converter, or distributor may plead and prove as an affirmative defense to the remedies provided hereunder that (1) the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle; or (2) the nonconformity does not substantially impair the use or market value of the motor vehicle.

The amendment was read.

On motion of Senator Brown, the amendment was tabled by the following vote: Yeas 20, Nays 7.

Yeas: Armbrister, Bivins, Brooks, Brown, Dickson, Green, Haley, Henderson, Krier, Leedom, Lyon, McFarland, Montford, Ratiiff, Santiesteban, Sims, Tejeda, Uribe, Whitmire, Zaffirini.

Nays: Barrientos, Caperton, Edwards, Parker, Parmer, Truan, Washington.

Absent: Carriker, Glasgow, Harris, Johnson.

Senator Edwards offered the following amendment to the bill:

Floor Amendment No. 3

Amend H.B. 2552 by striking the first sentence of Section 6.07(d), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), as amended by Section 34 of the bill, and substituting the following:

There is a rebuttable presumption [It shall be presumed] that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if (1) the same nonconformity has been subject to repair three ~~four~~ or more times by the manufacturer, converter, or distributor, its agent, or its authorized dealer, within the express warranty term or during the period of one year following the date of original delivery to an owner, whichever is the earlier date, but such nonconformity continues to exist; or (2) the vehicle is out of service for repair for a cumulative total of 21 ~~30~~ or more days during such term or during such

period, whichever is the earlier date and a nonconformity still exists that substantially impairs use and market value.

The amendment was read.

On motion of Senator Brown, the amendment was tabled by the following vote: Yeas 24, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Dickson, Green, Haley, Henderson, Krier, Leedom, Lyon, McFarland, Montford, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Edwards, Washington.

Absent: Carriker, Glasgow, Harris, Johnson, Parker.

Senator Edwards offered the following amendment to the bill:

Floor Amendment No. 4

Amend H.B. 2552 as follows:

(1) Strike Section 6.07(c), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), as amended by Section 34 of the bill, and substitute the following:

(c) If the manufacturer, converter, or distributor is unable to conform the motor vehicle to an applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use or ~~and~~ market value of the motor vehicle after a reasonable number of attempts, the manufacturer, converter, or distributor shall replace the motor vehicle with a comparable motor vehicle or accept return of the vehicle from the owner and refund to the owner the full purchase price less a reasonable allowance for the owner's use of the vehicle and any other allowances or refunds payable to the owner. Refunds shall be made to the owner and lienholder, if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use of the motor vehicle ~~[prior to the first report of the nonconformity to the manufacturer or distributor, its agent, or its dealer and during any subsequent period]~~ when the vehicle is not out of service for repair. ~~An order to refund or to replace may not be issued by the Commission against a manufacturer, distributor, or converter unless the manufacturer, distributor, or converter has been mailed prior written notification of the alleged nonconformity or defect from or on behalf of the owner and has been given an opportunity to cure the alleged defect or nonconformity.~~ In any hearing before the Commission under this section, a manufacturer, converter, or distributor may plead and prove as an affirmative defense to the remedies provided hereunder that (1) the nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of the motor vehicle; or (2) the nonconformity does not substantially impair the use and market ~~or~~ value of the motor vehicle.

(2) Strike the first sentence of Section 6.07(d), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), as amended by Section 34 of the bill, and substitute the following:

(d) There is a rebuttable presumption ~~[It shall be presumed]~~ that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if (1) the same nonconformity has been subject to repair four or more times by the manufacturer, converter, or distributor, its agent, or its authorized dealer, within the express warranty term or during the period of one year following the date of original delivery to an owner, whichever is the earlier date, but such nonconformity continues to exist; or (2) the vehicle is out of service

for repair for a cumulative total of 30 or more days during such term or during such period, whichever is the earlier date and a nonconformity still exists that substantially impairs use or [and] market value.

The amendment was read.

On motion of Senator Edwards and by unanimous consent, the amendment was withdrawn.

The bill was passed to third reading viva voce vote.

HOUSE BILL 2552 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 2552** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given yesterday by Senator Edwards.

Senator Edwards moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

Senator Washington requested that the nominees to the Texas Agricultural Finance Authority Board of Directors be severed and that the nominees to the District Two Review Committee, State Board of Medical Examiners be severed.

The request was granted.

NOMINEES CONFIRMED

The following nominees, not severed and reported yesterday by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Members, District One Review Committee, State Board of Medical Examiners: DR. JEROME L. ARMBRUSTER, Brazoria County; DR. RICHARD H. EPPRIGHT, Harris County; DR. ROBERT W. FELDTMAN, Harris County; DR. WILLIAM H. FLEMING III, Fort Bend County; MRS. CLARA HUBERT HANEY, Galveston County.

Members, District Three Review Committee, State Board of Medical Examiners: DR. CARLOS A. FERNANDEZ, El Paso County; MRS. CAROLYN MOORHOUSE, Baylor County; DR. WILLIAM L. RECTOR, Wichita County; DR. F. WARREN TINGLEY, Tarrant County; DR. IRVIN E. ZEITLER, JR., Jones County.

Members, District Four Review Committee, State Board of Medical Examiners: DR. CLYDE R. DANKS, Travis County; DR. ROYCE K. KEILERS, Fayette County; MRS. JANET McGLASSON, Aransas County; DR. LUIS M. RIOS, Hidalgo County; DR. HAROLD SKAGGS, Travis County.

Member, Radiation Advisory Board: WILLIAM G. HENDRICK, Travis County.

NOMINEES CONFIRMED

Question on the confirmation of Mrs. Linda Kagy, Dr. Milam B. Pharo, Dr. John Leon Sawtelle, Dr. Phillip Earle Williams, Jr., and Dr. Richard Charles Wootan, to be Members of the District Two Review Committee, State Board of Medical Examiners, nominees were confirmed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

Question on the confirmation of John E. Birdwell, Jr., Othal E. Brand, Jr., Jerry Harris and John W. Jones, to be Members of the Texas Agricultural Finance Authority Board of Directors, nominees were confirmed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

BILL SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

S.B. 892**HOUSE BILL 369 ON SECOND READING**

Senator Henderson moved to suspend the regular order of business to take up for consideration at this time:

H.B. 369, Relating to creation and operation of the Texas exporters loan fund.

The motion prevailed by the following vote: Yeas 23, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Edwards, Green, Haley, Henderson, Johnson, Krier, McFarland, Montford, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Leedom, Washington.

Absent: Brown, Caperton, Glasgow, Harris, Lyon, Parker.

The bill was read second time.

Senator Henderson offered the following committee amendment to the bill:

Amend **H.B. 369**, page 1, line 20, by deleting the following:

“or into a maquiladora component supply industry”

The committee amendment was read and was adopted viva voce vote.

Senator Henderson offered the following amendment to the bill:

Amend **H.B. 369** by striking Section 481.059(a), Government Code (Committee Printing, page 1, lines 30-39), as added by Section 1 of the bill, and substituting:

(a) The Texas exporters loan fund is a fund in the state treasury. The fund consists of appropriations or transfers made to the fund, guarantee fees, other money received from operation of the program established by this section, and interest paid on money in the fund. Money in the fund may be used only to carry out the purposes of this section. If any appropriations are made to the department from the general revenue fund to carry out this section for a fiscal year, at the end of that fiscal year the unexpended balance of those appropriations shall be transferred to the Texas exporters loan fund.

The amendment was read and was adopted viva voce vote.

On motion of Senator Henderson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 369 ON THIRD READING

Senator Henderson moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 369** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Whitmire, Zaffirini.

Nays: Leedom, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTES

Senators Leedom and Washington asked to be recorded as voting "Nay" on the final passage of the bill.

MESSAGE FROM THE HOUSE

House Chamber
May 18, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 479, Relating to the continuation, powers and duties of the Commission on Human Rights. (As substituted and amended)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE HOUSE BILL 2288 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2288, Relating to the regulation of dealers' and manufacturers' license plates and tags.

The bill was read second time and was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2288 ON THIRD READING**

Senator Sims moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.H.B. 2288** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 487 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 487, Relating to the use of funds contributed by or for a participant in the optional retirement program for faculty members of state institutions of higher education.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Amend **H.B. 487** on page 1, line 46, by inserting after the word "contract" the following: ", for a term of no more than one (1) year,"

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 487 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 487** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE CONCURRENT RESOLUTION 67

Senator Dickson offered the following resolution:

WHEREAS, Arthur Lance Sears, whose principal residence was in Sweetwater, Nolan County, Texas, for 75 years, where he successfully conducted his personal businesses, as well as assisting many civic- and church-related projects; and

WHEREAS, The residents of Sweetwater, as well as many other areas of Texas, benefitted greatly from his tireless services and his good fortunes; and

WHEREAS, Arthur Lance Sears served the entire State of Texas as President of the Texas Sheep and Goat Raisers Association and in his leadership in the Texas Cattlemen's Association, his presidency of the Highland Hereford Association, and his service as a Special Honorary Texas Ranger; and

WHEREAS, Arthur Lance Sears was duly appointed on October 26, 1973, to serve as member of the Board of Regents of Texas State Technical Institute and did faithfully perform duties as Chairman of the Texas State Technical Institute Policy Committee for Instruction and as a member of the Committee on Personnel and Fringe Benefits, the Fiscal Affairs Policy Committee, the Human Resources Policy Committee, and the Policy Committee for Development until December 21, 1978; and

WHEREAS, Texas State Technical Institute, during Mr. Sears's tenure, did so benefit from his counsel that the Institution did indeed make significant advances at Texas State Technical Institute-Sweetwater in securing the support of the entire Sweetwater community; through his guidance and vision, the impact of Texas State Technical Institute has been felt in the state and nation; and

WHEREAS, Arthur Lance Sears acted as one of the principal forces in the establishment and continuing operation of the Sears Memorial Center in Abilene, Texas; and

WHEREAS, Arthur Lance Sears worked as Wagon Boss for several West Texas Cattlemen's Roundups for West Texas Rehabilitation Center; and

WHEREAS, Arthur Lance Sears served his native City of Sweetwater, the County of Nolan, and the entire State of Texas in many other capacities; now, therefore, be it

RESOLVED by the 71st Legislature of the State of Texas, That the life of Arthur Lance Sears be commended and his memory be honored for the unflagging assistance he so graciously gave to his city, his county, and his state; and, be it further

RESOLVED, That copies of this resolution be prepared for the members of his family; his wife, Frances Mae Sears, and his daughters, Suzanne Sears Easterling of San Antonio and Sandra Sears Lowenfield of El Paso, as an expression of the gratitude of the Texas Senate, and that when the Texas Legislature adjourns this day, it do so in memory of Arthur Lance Sears.

DICKSON
SIMS

The resolution was read.

On motion of Senator Sims and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

GUESTS PRESENTED

Senators Sims and Dickson escorted Mr. Sears' family to the President's Rostrum.

They received an enrolled copy of S.C.R. 67, adopted by the Senate on March 13, 1989.

GUEST PRESENTED

Senator Armbrister was recognized and presented Dr. Dana Evans of Wells Point.

The Senate welcomed Dr. Evans, a participant in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, and expressed appreciation for his contributions today.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Finance might consider the following bills at 9:00 a.m. tomorrow:

S.B. 477

S.B. 1087

SENATE RULE 11.11 SUSPENDED

On motion of Senator Sims and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Administration might consider the following resolutions at 8:30 a.m. tomorrow:

S.C.R. 157

S.C.R. 158

SENATE RULE 11.11 SUSPENDED

On motion of Senator Parmer and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Intergovernmental Relations might consider **H.B. 2631** today.

RECESS

On motion of Senator Brooks, the Senate at 12:21 p.m. recessed until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:00 p.m. and was called to order by Senator Brooks.

REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator Glasgow submitted the following report for the Committee on Jurisprudence:

H.B. 1591

H.B. 254

H.B. 2127

C.S.H.B. 2509

By unanimous consent, Senator Parmer submitted the following report for the Committee on Intergovernmental Relations:

H.B. 1601

H.B. 2780

H.B. 647

S.B. 1829

C.S.H.B. 1364

MESSAGE FROM THE HOUSE

House Chamber

May 18, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 280, Honoring Jim Trammel.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL AND RESOLUTIONS ON FIRST READING

On motion of Senator Carriker and by unanimous consent, the following bill and resolutions were introduced, read first time and referred to the Committee indicated:

S.B. 1852 by Barrientos Natural Resources
Relating to the addition of a special director on the board of directors of certain water control and improvement districts.

S.C.R. 159 by Washington Administration
Establishing a special interim task force to study the Mentally Retarded Persons Act as it relates to the current mental retardation service delivery issues and challenges.

S.C.R. 161 by Johnson, Barrientos, Brooks, Administration
Edwards, Krier, Parker
Requesting the Lieutenant Governor and the Speaker of the House of Representatives to provide for a joint interim study on child day care by the Senate Committee on Health and Human Services.

S.C.R. 162 by Truan, Armbrister, Brooks, Brown, Administration
Parker, Uribe
Requesting the Lieutenant Governor and the Speaker of the House of Representatives to create a special joint interim committee to study the structure and operation of the CATPOOL.

S.R. 679 by Carriker Education
Encouraging Texas medical schools to offer their students an early exposure to family practice in the third year of medical school.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Sims and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Administration might consider the following resolutions at 8:30 a.m. tomorrow:

S.C.R. 159

S.C.R. 161

S.C.R. 162

COMMITTEE OF THE WHOLE SENATE

On motion of Senator Glasgow and by unanimous consent, the Senate at 2:08 p.m. resolved into the Committee of the Whole Senate with Senator Brooks presiding.

IN LEGISLATIVE SESSION

Senator Brooks called the Senate to order at 3:29 p.m. as In Legislative Session.

MEMORIAL RESOLUTIONS

S.R. 666 - By Glasgow: In memory of Dudley Elgin "Curly" Hallmark of Meridian.

S.R. 667 - By Glasgow: In memory of William Buchanan Thompson of Fort Worth.

S.R. 669 - By Glasgow: In memory of Marguerite C. Dillon of Cleburne.

S.R. 672 - By Glasgow: In memory of Hubert H. Coney of Weatherford.

S.R. 680 - By Lyon: In memory of Judge Milton Mell of Tyler.

S.R. 683 - By Truan: In memory of Noe R. Truan of Kingsville.

CONGRATULATORY RESOLUTIONS

H.C.R. 209 - (Uribe): Designating the Confederate Air Force of the State of Texas as Defender of Texas Honor and Pride during the period of September 1, 1989, to September 2, 1995, the era of the 50th anniversary of World War II.

S.C.R. 160 - By Ratliff: Commending John William Turk, Jr., on his many years of service with Southwestern Electric Power Company and extending best wishes on the occasion of his retirement.

S.R. 664 - By Sims: Extending congratulations to Mrs. Cheri Dotson for being chosen as the 1989 Texas School Volunteer of the Year by the Texas School Volunteer Program.

S.R. 670 - By Glasgow: Commending the valuable contributions of Ed Hestand to the district office of Texas Senatorial District 22.

S.R. 671 - By Glasgow: Extending congratulations to Mr. and Mrs. Tab Thompson of Stephenville on the first birthday of their quadruplets.

S.R. 673 - By Tejeda: Extending congratulations to the students, faculty, parents, and administrators of Rayburn Elementary School in San Antonio on their 40 years of public education excellence.

S.R. 674 - By Parmer: Extending congratulations to Dr. Robert Bohl for receiving the Public Citizen of the Year award by the Tarrant County Unit of the National Association of Social Workers/Texas.

S.R. 676 - By Dickson: Extending congratulations to the citizens of Sweetwater and to the men and women who have contributed to the special rededication ceremony for the Sweetwater Municipal Airport.

S.R. 677 - By Dickson: Extending congratulations to Fred Bandas on being selected as the Public Citizen of the Year for the Central Counties Unit of the National Association of Social Workers/Texas.

S.R. 678 - By Dickson: Extending congratulations to Warren Townsend on being honored as the Social Worker of the Year for the Central Counties Unit of the National Association of Social Workers/Texas.

S.R. 681 - By Johnson: Extending congratulations to Leslie and Louise Ray of Plainview on their 50th wedding anniversary.

S.R. 682 - By Truan: Saluting Alcalde Don Jose Manuel Molina Garcia, Mayor of the City of Toledo, Spain.

S.R. 684 - By Truan: Commending Los Encinos Special Emphasis School in Corpus Christi.

S.R. 685 - By Truan: Designating the week of September 23-30, 1989, as Texas Rural Health Week.

S.R. 686 - By Tejeda: Extending congratulations to the Town East Baptist Church on its 31st anniversary.

S.R. 688 - By Green: Extending congratulations to Chris Szabo on achieving the rank of Eagle Scout.

ADJOURNMENT

On motion of Senator Zaffirini, the Senate at 3:31 p.m. adjourned until 9:30 a.m. tomorrow.

APPENDIX

Sent to Governor
(May 18, 1989)

S.B. 892

In Memory

of

Keith Kelly

Senator Glasgow offered the following resolution:

(Senate Resolution 668)

WHEREAS, The death of the Honorable Keith Kelly of Fort Worth, Texas, on July 5, 1987, was greatly mourned by his fellow residents; and

WHEREAS, A native of Joshua, Texas, he was born June 10, 1914, and had lived in Fort Worth where he was active in the social, commercial, and religious life of the town; and

WHEREAS, An attorney, he served with great distinction as a State Senator from 1947 through 1952, serving as chairman of the Insurance Committee and as a member of the Legislative Budget Board; and

WHEREAS, He served as chairman of the Texas State Bar in 1968 and was a member of All Saints Episcopal Church in Fort Worth; and

WHEREAS, In devoting much of his time to the betterment of his community, this respected gentleman's achievements included his work as a founder and charter member of the Breakfast Club in Fort Worth; and

WHEREAS, He leaves a legacy of compassion and commitment that will remain cherished by those who lived and worked with him; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, hereby extend deepest sympathy to the family members of the late Senator Keith Kelly: his wife, Mary; his daughter, Kerry; his son, Keith, Jr.; his two stepsons, Clayton and Cass; and his five grandsons; and, be it further

RESOLVED, That copies of this Resolution be sent to his family as an expression of profound regret from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Senator Keith Kelly.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Glasgow and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.